IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

L.P.A. No.106 of 2003
Date of decision : 8.10.2007

State of Haryana & others

....Appellants through
Mr.Rameshwar Malik,
Addl.Deputy Advocate
General, Haryana.

Versus

Subhash Chand Tuteja & others

... Respondents through
Mr. B.K.Bagri, Advocate

CORAM : HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

...

Vijender Jain, Chief Justice (Oral)

The present appeal under Clause X of the Letters Patent is directed against the judgment of the learned Single Judge dated 22.8.2002.

Broadly, the controversy involved in the writ petition was regarding re-fixation of pay in accordance with the notification dated 7.1.1998 issued by the State of Haryana and also to remove the disparity and anomalies in the pay scale of the persons junior to the

petitioners in the said writ petition

The said writ petition was disposed of by the learned Single Judge on the strength of the judgment dated 5.7.2002 rendered in CWP No.19722 of 1998 titled as *Man Singh and others v. State of Haryana and others.*

The state of Haryana has assailed the judgment of the learned Single Judge. During the course of the proceedings in appeal, the matter has been answered by the Apex Court in Civil Appeal No.3250 of 2006 titled as *Commissioner and Secretary to Government of Haryana and others v. Ram Sarup Ganda and others*, decided on 2.8.2006, the copy of which has been placed on record. The relevant extract of the observations of the Apex Court while concluding the controversy is as below :-

> "By the impugned judgment, the High Court has held that the respondents are entitled to get the ACP scales that are applicable to Group "C" post, but the Rules, as such, do not provide for that. The Rules say that if there are already upgradations, then the concerned employees are not entitled to the benefit of ACP scales. Nevertheless, if ACP scales are higher, they are certainly entitled to the ACP scales at the starting point. The date of giving such ACP scales if the date of entry into the service and though these respondents are entitled to get ACP scales and get fixation of the ACP scales as applicable to Group "D" employees and in case there are anomalies to the effect that they receive lesser pay than

their juniors working in the cadre/post, such senior Government servants are entitled to step up their salary to get it on par with the salary which is being received by their juniors.

In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same cadre/post, then their salary shall be stepped up accordingly. Revised orders shall be passed within a period of two months of the receipt of the copy of this order by the Government. However, if upon revision of the pay scales, any employee is liable to refund any amount, the Government shall not insist on refund of such amount. If any employee is entitled to get any amount by way of pay revision, the said amount shall be made available to him within a period of six months from the date of receipt of the copy of this order by the Government.

Consequently, the appeals are partly allowed with no order as to costs."

Both the parties are agreed that the appeal deserves to be disposed of in terms of the conclusively determined controversy by the Apex Court in the aforesaid appeal.

Accordingly, we dispose of the present Letters Patent Appeal in terms of the abovesaid judgment passed by the Supreme Court.

(VIJENDER JAIN)
CHIEF JUSTICE

8.10.2007

(MAHESH GROVER)
JUDGE

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